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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/471,357	12/23/1999	SHINJI NABESHIMA	2406-3	7310

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EXAMINER

BOCCIO, VINCENT F

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 02/18/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/471,357

Applicant(s)

NABESHIMA ET AL.

Examiner

Vincent F. Boccio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-83 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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DETAILED ACTION  
Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-7, 13-17, 21-48, 65-79, drawn to devices or apparatus claims, for performing reception, recording and reproduction embodiments, best searched and classified in class 386/46, 83 etc..

Group II. Claims 11-12, 49-51, 57-58, 80 drawn to methods of reception, recording and reproduction, which is best searched and classified in class 386/83 etc..

Group III. Claims 8-9, 18, 52-56, 81-83, drawn to, "data structures on a record medium", best searched and classified in class 386/46, 124 etc..

Group IV. Claims 10, 19-20, 59-64, drawn to transmission devices and methods and the created carrier wave data structure best searched and classified in class 725/114 etc..

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The inventions are distinct, each from the other because of the following reasons:

2. Inventions of groups I & II are related as apparatus/device and process/method, for its practice.

The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)).

In this case it is deemed that, the methods can be performed on different devices, as is obvious to those skilled in the art.

3. Inventions of groups I, II, III, IV, devices for reception, recording, reproduction {I}, the corresponding methods {II} associated with the record media data structure and carrier wave data structure {III & IV}. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)).

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In this case the data structures (record media and carrier wave) and methods of reception, recording and reproduction, can be made and/or performed, with different devices/apparatuses, wherein the data structures can also be created with different methods, therefore, different methods and apparatuses, can create the data structures, furthermore, different apparatuses can be responsible for performing the methods, as claimed.

4. This application contains claims directed to the following patentably distinct species of the claimed invention:

**Apparatuses, of Group I**

Species 1, Fig. 9-10

Species 2, Fig. 16

Species 3, Fig. 19

Species 4, Fig. 33-34

Species 5, Fig. 48

Species 6, Fig. 53

Species 7, Fig. 59.

5. This application contains claims directed to the following patentably distinct species of the claimed invention:

**Reception, modes/methods, associated with Group II**

Species 8, Fig. 11

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Species 9, Fig. 21

Species 10, Fig. 36.

6. This application contains claims directed to the following patentably distinct species of the claimed invention:

Recording, modes/methods, associated with Group II

Species 11, Figs. 12 & 22

Species 12, Fig. 17

Species 13, Fig. 40

Species 14, Fig. 49.

7. This application contains claims directed to the following patentably distinct species of the claimed invention:

Reproduction, modes/methods associated with Group II

Species 15, Fig. 15

Species 16, Fig. 18

Species 17, Fig. 23

Species 18, Fig. 44.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are determined to be generic and allowable.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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Contact Fax Information

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communication intended for entry)

or:

(703) 308-5359, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).


Contact Information

1. Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Monday-Thursday, 8:00 AM to 5:00 PM Vincent F. Boccio (703) 306-3022.

If any attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Andy Christensen (703) 308-9644.

Any inquiry of a general nature or relating to the status of this application should be directed to Customer Service (703) 306-0377.

Primary Examiner, Boccio, Vincent  
2/17/04

  
VINCENT BOCCIO  
PRIMARY EXAMINER